

Exhibit 2

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

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August 27, 2024 10:00 AM
CLERK OF COURT
U.S. DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
BY:KLB

UNITED STATES OF AMERICA *ex*
rel. GNGH2 Inc.,

Case No. 1:24-cv-196

Plaintiff-Relator,

Hon. Paul L. Maloney
U.S. District Judge

v.

HORN USA, Inc.,

**FILED *EX PARTE* AND
UNDER SEAL**

Defendant.

**MEMORANDUM OF LAW IN SUPPORT OF
THE UNITED STATES OF AMERICA'S *EX PARTE*
APPLICATION FOR PARTIAL LIFTING OF THE SEAL**

The United States of America submits this Memorandum in support of its unopposed *ex parte* application for a partial lifting of the seal in this case. This application is submitted so that, at the discretion of the United States, the United States may disclose the existence and nature of this case, the Complaint, and the Court's order granting this application to the Defendant in this *qui tam* action and its counsel. Relator concurs in this request.

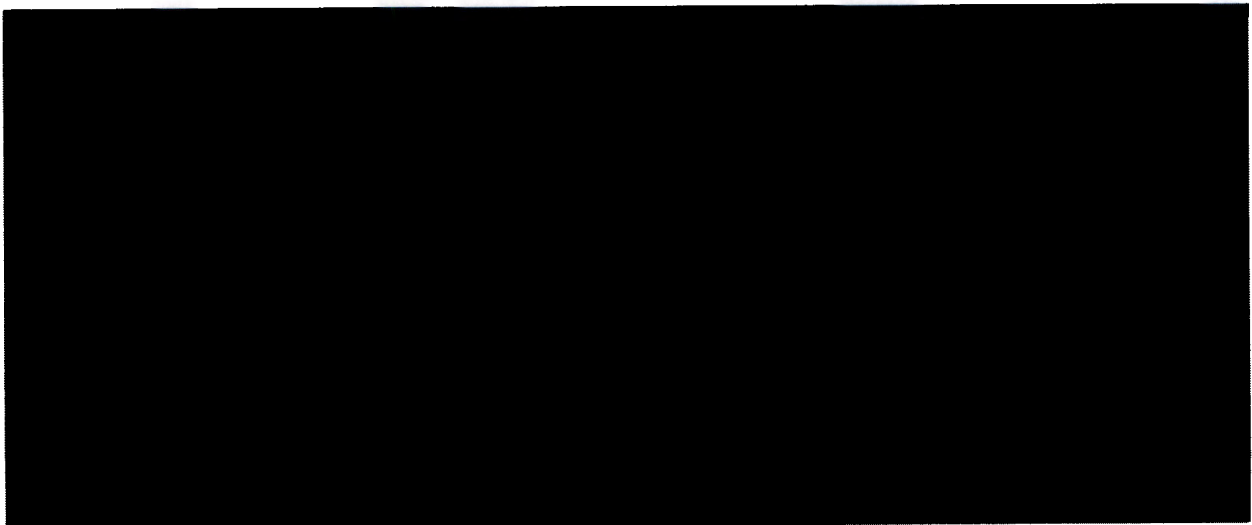
DISCUSSION

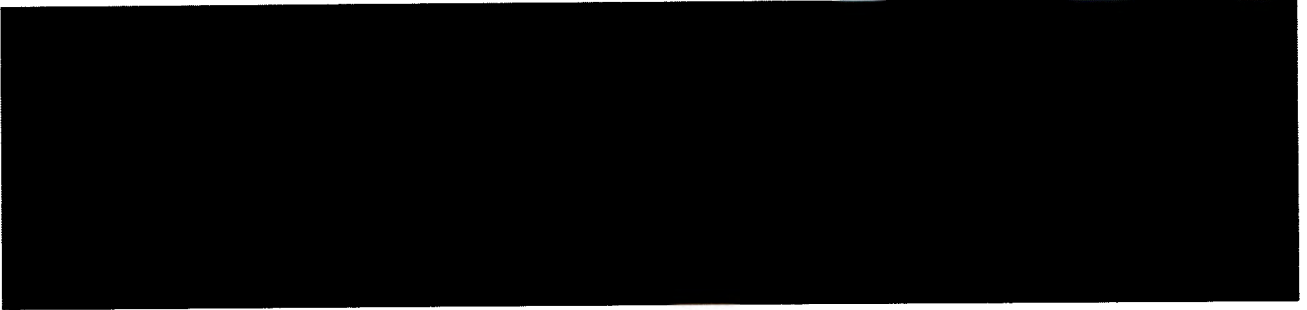
Under the False Claims Act, 31 U.S.C. § 3730(b), *qui tam* complaints are filed under seal so that the United States has “an adequate opportunity to fully evaluate the private enforcement suit and determine both if the suit involves matters the Government is already investigating and whether it is in the Government's interest

to intervene and take over the civil action.” See S. Rep. 99-345, 99th Cong., 2d Sess., *reprinted in* 1986 U.S.C.C.A.N. 5266, 5289.

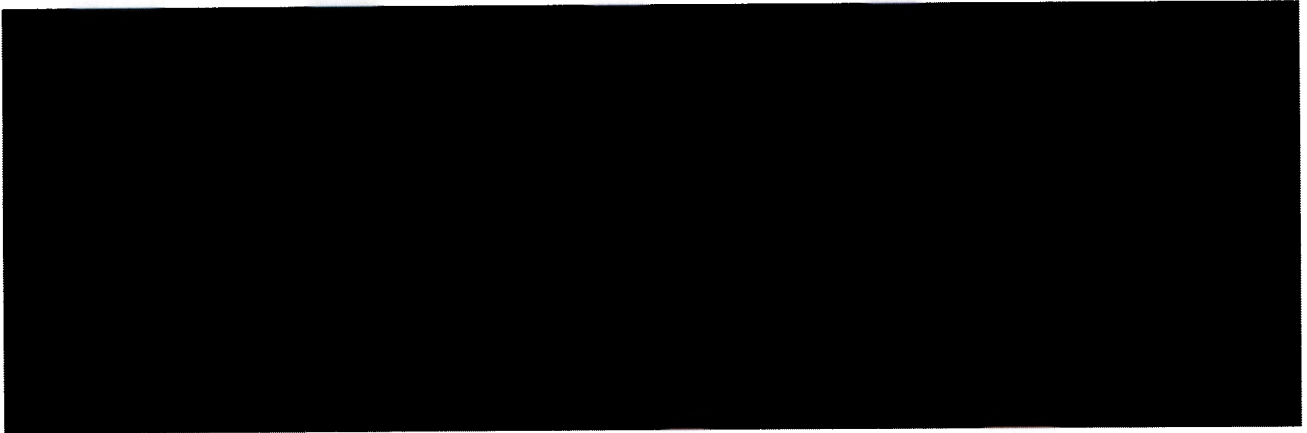
As a result, the seal the False Claims Act imposes in 31 U.S.C. § 3731(b)(2) prevents the United States from advising defendants about the existence of a pending *qui tam* action against them, including during attempts to reach a resolution, without a court order allowing for a partial lifting of the seal. The United States therefore requests that this case be partially unsealed in order to permit the United States, at its discretion, to disclose the existence of this case, Relator’s Complaint, the allegations in the Complaint, and the Court’s order granting this application to Defendant in this *qui tam* action and its counsel.

Relator alleges that Defendant violated the False Claims Act by fraudulently applying for and receiving a Paycheck Protection Program loan for which it was not eligible because it exceeded the employee cap and had significant operations in China. Relator filed the Complaint in camera and under seal and the Court has granted the United States until November 4, 2024 to elect to intervene.





The requested disclosures are in the interests of justice and judicial economy.



CONCLUSION

The United States respectfully requests that the Court partially lift the seal to permit the United States to advise Defendant of the existence of this *qui tam* suit and provide a copy of the Relator's Complaint and the Court's order partially lifting the seal to Defendant and its counsel. The United States further requests that this case and its filings otherwise remain under seal through the current intervention deadline of November 4, 2024, and through any extended intervention deadlines granted by the Court. The Court is respectfully referred to the proposed Order filed with this application. Relator concurs in this request.

Dated: August 27, 2024

Respectfully submitted,

MARK A. TOTTEN
United States Attorney

A handwritten signature in blue ink, appearing to read 'Whitney M. Schnurr', is written over a horizontal line.

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